

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 Before The Honorable Thomas S. Hixson, Magistrate Judge  
4  
5 EPIC GAMES, INC., )  
6 Plaintiff, )  
7 vs. ) No. C 20-05640-YGR  
8 APPLE, INC., )  
9 Defendant. )

10  
11 San Francisco, California  
12 Friday, October 4, 2024

13 TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND  
14 RECORDING 9:07 - 9:13 = 6 MINUTES

15 APPEARANCES:

16 For Plaintiff:

17 Cravath, Swaine & Moore, LLP  
18 375 Ninth Avenue  
19 New York, New York 10001  
20 BY: YONATAN EVEN, ESQ.

21 For Defendant:

22 Gibson, Dunn & Crutcher, LLP  
23 333 S. Grand Avenue  
24 Los Angeles, California 90071  
25 BY: JASON C. LO, ESQ.

Weil, Gotshal & Manges, LLP  
2001 M Street, NW  
Suite 600  
Washington, D.C. 20036  
BY: MARK A. PERRY, ESQ.

1 Transcribed by: Echo Reporting, Inc.  
2 Contracted Court Reporter/  
3 Transcriber  
4 [echoreporting@yahoo.com](mailto:echoreporting@yahoo.com)  
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1 Friday, October 4, 2024

9:07 a.m.

2 P-R-O-C-E-E-D-I-N-G-S

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4 THE CLERK: All right. We're here in Civil Action  
5 20-5640, Epic Games, Inc. versus Apple, Inc., the Honorable  
6 Thomas S. Hixson presiding.

7 Counsel, please state your appearances. Let's start  
8 with Plaintiff's counsel.

9 MR. EVEN (via Zoom): Yonatan Even for Epic Games.

10 THE COURT: Good morning.

11 MR. LO (via Zoom): Good morning, your Honor.  
12 Jason Lo for Apple.

13 THE COURT: Good morning.

14 MR. PERRY (via Zoom): And good morning, your  
15 Honor. Mark Perry also for Apple.

16 THE COURT: Good morning.

17 I've received the parties' status report. Thank you  
18 for that. Let me turn to Epic. Is there anything that you  
19 wanted to add? There doesn't have to be, but I thought I  
20 would ask.

21 MR. EVEN: I appreciate that, your Honor. I don't  
22 think there is much to add beyond what we said. We have  
23 some serious concerns about the scope of the production,  
24 mainly because the first time we heard it's going to be this  
25 small and that Apple is now claiming that the search term

1 yields such a low number of documents was after the deadline  
2 has passed, and given the conduct so far, we don't have a  
3 lot of confidence that has been built up over the past four  
4 months given Apple's representation on timing and on rolling  
5 productions, none of which has happened.

6       We also have a concern because we didn't get the  
7 information we had asked for. We've asked Apple  
8 historically for hit rates for the different search terms,  
9 and we've asked Apple for the breakdown between privilege  
10 withholding and responsiveness withholding now. We haven't  
11 received that. So, we are -- we don't want to spend months  
12 here duking this out. We want to get back to -- to the main  
13 process, but we don't know what we don't know yet. And, so,  
14 we will, you know, put ourselves into reviewing this as  
15 quickly as we can. We are waiting for the privilege logs  
16 that are due next -- end of next week I believe. We will  
17 meet and confer early next week on the priv logs that we've  
18 already received that we have serious concerns about.  
19 They're -- we don't think they establish the -- the  
20 privilege that Apple is asserting in many of the instances,  
21 probably more than 50 percent of the instances on them.  
22 And, so, we'll need a little more time to really come to  
23 ground on where we are and whether additional proceedings  
24 are necessary to give us the confidence we need that we  
25 actually got the documents that we believe we deserve. But

1 I think that's where we are.

2 THE COURT: Okay. Thank you.

3 And let me turn to Apple. Do you have anything that  
4 you would like to add to what you said in the status report?

5 MR. LO: No, your Honor. Just briefly to respond  
6 to a couple of the points. With respect to the  
7 responsiveness, I know it's a statement that's made in the  
8 joint statement and maybe in a letter that was addressed to  
9 Apple. We have actually never made a representation in  
10 terms of what the size of the review -- of the responsive  
11 documents were because, frankly, I don't know how we would  
12 have made that. We don't know until we've actually reviewed  
13 the documents. The only numbers I believe we've given is  
14 just here are the hit rates and here's how many's in our  
15 population. So, at the end of the day, we've produced what  
16 we believe is responsive, and we've used reviewers to help  
17 with that process.

18 Mr. Even noted that he has asked for some additional  
19 information, and we will be happy to meet and confer with  
20 him. Our number one priority right now is to get through  
21 the remaining documents. As we stated in our report, our  
22 anticipation is that we will be fully done with our  
23 production by Monday at the latest. And, so, that's our  
24 first priority, but certainly if there's anything that he  
25 wants to talk about, preferably after Monday, we would be

1 happy to talk about.

2 THE COURT: All right. Thank you.

3 I want the parties to continue filing status reports  
4 every two weeks. I think your next one should be two weeks  
5 after the last one. So, that would be on October 17th  
6 because the last one was October 3rd. And continue to  
7 update me on any potential disputes.

8 If you have any disputes, please meet and confer as  
9 appropriate, but then please bring them to me promptly,  
10 because I want to resolve them promptly.

11 Also, now that Apple has stated that it expects to  
12 complete document production within a few days, I'd like  
13 both sides to be looking forward to the next phase. And,  
14 so, in each of your status reports that you file from now  
15 on, I would like each side to state whether you are ready to  
16 resume proceedings before Judge Gonzalez Rogers. This  
17 discovery is a vehicle for resuming those proceedings, and I  
18 would like the parties to report when you believe that you  
19 are ready to do that.

20 Is there anything further that Epic would like to raise  
21 at this hearing today?

22 MR. EVEN: No, your Honor. Thank you.

23 THE COURT: Is there anything further that apple  
24 would like to raise at this hearing today?

25 MR. LO: Not for me. Mr. Perry, anything?

1 MR. PERRY: No, your Honor. Thank you.

2 Understood.

3 THE COURT: All right. Well, thank you, Counsel,  
4 and I will look forward to getting your next status report  
5 on October 17th. Have a good day.

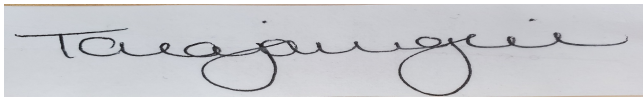
6 ALL: Thank you, your Honor.

7 (Proceedings adjourned at 9:13 a.m.)  
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I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.



Echo Reporting, Inc., Transcriber

Tuesday, October 8, 2024